

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

JS-6

**CIVIL MINUTES—GENERAL**

Case No. EDCV-12-1448-MWF (SPx) Date: January 7, 2013

Title: Blacks Edition LLC v. Federal Home Loan Mortgage Corporation, et al.

Present: The Honorable MICHAEL W. FITZGERALD , U.S. DISTRICT JUDGE

<u>Rita Sanchez</u>	<u>Not Reported</u>	<u>N/A</u>
Deputy Clerk	Court Reporter/Recorder	Tape No.

Attorneys Present for Plaintiff:	Attorneys Present for Defendants:
Not Present	Not Present

**Proceedings (In Chambers): ORDER DISMISSING ACTION FOR FAILURE TO PROSECUTE**

On December 4, 2012, the Court granted Defendant's unopposed Motion to Dismiss Pursuant to Rule 12(b)(6). (Docket No. 10). In the December 4, 2012 Order, the Court advised Plaintiff that pursuant to Local Rule 83-2.10.1, it could not proceed in *pro se*. The Court directed Plaintiff to secure counsel who would file a notice of appearance within 21 days of the date of the Order and to file an amended complaint, if any, by that date. The deadline for filing an amended complaint and counsel's notice of appearance was therefore December 26, 2012. Plaintiff has not responded to the Court's Order or filed an amended complaint, and no attorney has noticed an appearance.

The Court finds that Plaintiff's failure to oppose Defendant's Motion to Dismiss, failure to file an amended complaint, and failure to secure counsel constitutes failure to prosecute and to comply with court rules and orders under Federal Rule of Civil Procedure 41(b). *See Pagtalunan v. Galaza*, 291 F.3d 639, 642–43 (9th Cir. 2002) (“In determining whether to dismiss a claim for failure to prosecute or failure to comply with a court order, the Court must weigh the following factors: (1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to defendants/respondents; (4) the availability of less drastic alternatives; and (5) the public policy favoring disposition of cases on their merits.”); *Yourish v. Cal. Amplifier*, 191 F.3d 983, 989–92 (9th Cir. 1999) (explaining the factors supporting dismissal with prejudice for failure to prosecute).

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Because Plaintiff failed to follow the Court's directives and rules aimed at the timely prosecution of this case, the Court concludes that the *Pagtalunan* factors weigh in favor of dismissal of this action with prejudice. Plaintiff's failure to engage in the litigation it initiated hampers expeditious resolution of litigation and inhibits the Court's ability to manage its docket. Plaintiff has had various opportunities to prosecute this case such that a dismissal with prejudice does not unfairly impact its rights. Local Rule 41-1.

Accordingly, the action is DISMISSED WITH PREJUDICE for failure to prosecute and failure to comply with court rules and orders.

IT IS SO ORDERED.

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Initials of Preparer : N/A  
RS